

**REMARKS**

Claims 7, 8, 10, 15 - 18, 23, and 28 - 41 are now in this application. Claims 6 [sic] - 10, 15 - 23 [sic] and 28 [sic] - 33 are rejected. Claims 1 - 6, 9, 11 - 14, 19 - 22, and 24 - 27 are previously cancelled. New claims 34 - 41 are added. Claims 7, 8, 10, 23, and 28 are amended herein to clarify the invention, to express the invention in alternative wording, and to address matters of form unrelated to substantive patentability issues.

No new matter has been introduced into the application as a result of any of the amendments to the claims and/or the new claims entered into the application as a result of this Amendment.

Claim 10 has been amended to recite that a step of molding is performed, which is carried out by a method involving a melt of the composition. This is supported by the original specification, such as in the first paragraph of the Background of the Invention/Field of the Invention section (page 1, lines 7 - 9), by the second paragraph of the Detailed Description of the Invention section (page 5, lines 8 - 10), and by the Examples which show molding being performed on a molten melt of the biodegradable polymer composition of the invention using a injection molding, melt spinning, or extrusion process.

Claims 23, and 28 - 33 have been amended to clarify and presently recite that the method is used to produce a biodegradable polymer product from the

biodegradable polymer composition mixture, rather than the biodegradable polymer composition mixture itself.

New claims 34 - 41 have been added to more particularly point out and distinctly claims certain subject matter which the Applicant regards as the invention.

Claim 34, drawn to specifying an intensity of radioactive rays used for sterilization is supported by the specification at page 5, lines 4 - 9.

Support for new claims 35 and 40 is found in the Examples of the original specification. It is there disclosed that the biodegradable polymer composition according to the present invention has a molecular weight of 280,000 - 340,000 before molding.

Claim 36, drawn to the methods of molding which are preferably utilized, is supported by the original specification at page 3, first full paragraph (page 3, lines 5 - 7).

Claims 37 and 41, drawn to the nature of the biodegradable polymer product being a surgical suture, are supported by the 7<sup>th</sup> and 8<sup>th</sup> paragraphs of the Detailed Description of the Invention section (page 3, lines 10 - 14).

Claim 38, drawn to a biodegradable polymer product formed by a method involving a molten melt of a biodegradable polymer composition is supported by the original specification, *passim*.

Claim 39, drawn to specifying an amount of the free radical scavenger, is supported by the specification at page 5, line 19 (penultimate line of page) to page 6, line 4.

In the Office Action, previous claims 6 - 10, 15 - 23, and 28 - 33 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,733,868 to Peterson et al ("Peterson '868").

It is noted that in a telephonic interview between the Examiner and the undersigned, Applicant's attorney, on September 7, 2004, that the Examiner indicated that rejection would also be made in the present Office Action, presumably also pursuant to 35 U.S.C. 102(b), under U.S. Patent 6,299,905 to Peterson ("Peterson '905"), however, the present Office Action does not distinguish as to which Peterson reference, or both, has been applied.

Accordingly, in the following, reference is made to both references collectively as "Peterson", and both U.S. Patent 5,733,868 and U.S. Patent 6,299,905 are intended to be referred to by the remarks unless otherwise specifically indicated.

Applicant's attorney respectfully calls to the Examiner's attention the fact that of the claims indicated in the foregoing paragraph as having been rejected by the Examiner in the current Office Action, claims 6, 9, and 19 -22 were previously

cancelled by the Amendment After Final Rejection filed in the case by Applicant on June 4, 2004.

Accordingly, the rejection shall be presumed to apply only to those of the aforesaid claims to which the rejection was applied by the Examiner that were actually pending in the application at the time of issue of the present Office Action, namely, claims 5 - 10, 15 - 18, 23, and 28 - 33.

The Examiner has contended' that Peterson '868 discloses a pressure sensitive adhesive composition including a (poly)amino acid, an extraneous protein and a free radical scavenger (antioxidant) (ref. at col. 6, lines 18 -30), which the Examiner contends reads on the biodegradable polymer composition and method of producing a biodegradable polymer product as claimed according to the present application. The Examiner indicates that the composition of Peterson discloses each and every aspect of the composition and method of the present application, either explicitly, or inherently.

Applicant respectfully disagrees with the Examiner's analysis of Peterson and the conclusion that Peterson anticipates the present invention. Accordingly, the 35 U.S.C. 102(b) anticipation rejection is respectfully traversed for the following reasons.

Peterson '868 discloses a (poly)amino acid adhesive tissue graft composition and method for repairing connective tissue. In contrast, the

compositions, products , and method of the present application do not involve or utilize (poly) amino acids.

Peterson does not teach, disclose, or suggest that the (poly) amino acid compositions of that reference are thermoplastic resin compositions that are moldable by a method involving a molten melt of the composition.

In contrast, Applicant clearly teaches that the polymer composition of the present application is used to form products made by a method that involves the molding of a molten melt of the composition. From this, a person of ordinary skill in the art to which the present invention pertains would recognize that the polymer products thus produced are characteristically hard so as to retain particular shapes into which they are formed, such as films, filaments, and bags.

Moreover, Peterson utilizes an adhesive that is soft and pressure sensitive and is transformable even after being implanted within a body (see Peterson '868 reference at col. 4, line 64 - col. 5, line 7).

The polymer composition of the present application is typically molded at a temperature above the melting point of the composition. Peterson does not disclose that the (poly) amino acid composition of that reference is capable of being molded at a temperature above the melting point of the composition. In Peterson, formation of the polymer occurs at a temperature at or below 60 °C, which is lower than the melting point of the composition.

Peterson does not disclose molding by any of the methods taught by Applicant in the present application, namely, extrusion molding, injection molding, or press molding. Peterson only discloses use of the composition as a product that is an adhesive, and Peterson does not disclose applicability of the composition to make a molded product that can be made in filament shape for use as a surgical suture.

For at least the foregoing reasons, the composition, products, and method of the present application are patentably distinguishably different from Peterson and are not anticipated by Peterson. Accordingly, the 35 U.S.C. 102(b) anticipation rejection as applied to the claims in the present application as previously set forth should be withdrawn, and Applicant respectfully submits that the rejection is not applicable to the claims as presently amended herein.

In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited.

The present Amendment adds a total of eight (8) new claims, including one (1) new independent claim. Prior to that, up to a total of 33 claims were paid for with the original filing of the application, and after a previous Amendment filed on Dec. 8, 2003, as many as eight (8) simultaneous independent claims had been paid for. Certain claims have been cancelled as a result of previous amendments. After entry of this Amendment and the addition of the 8 new claims, there are 22 total

claims, including 4 independent claims, in the application. Accordingly, no net additional total claims or additional independent claims beyond the numbers previously paid for have been added and accordingly, no additional claims fees are presently due.

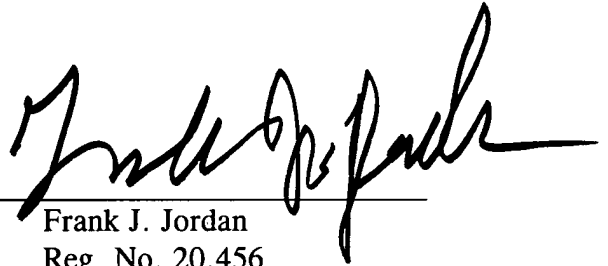
Applicant respectfully requests a one month extension of time for responding to the Office Action. Please charge the fee of \$60.00 for the extension of time to Deposit Account No. 10-1250. Applicant continues to have Small Entity status. This Amendment is being filed on Monday, January 24, 2005, the first business day following the due date for a reply under a one month extension of time (Saturday, January 22, 2005), therefore, the filing is deemed timely under a one month extension of time.

No other fees are believed due with the filing of this Amendment. If, however, any other fees are due, or if Applicant is entitled to a refund of any previously made overpayments, they should be respectively charged and credited to Deposit Account No. 10-1250.

Respectfully submitted,

JORDAN AND HAMBURG LLP

By

A handwritten signature in black ink, appearing to read "Frank J. Jordan", written over a horizontal line.

Frank J. Jordan

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